

The 2024 Mid-term review: Paving the way towards transformative drug policies grounded in reality

Introduction

In March 2019, UN Commission on Narcotic Drugs (CND) adopted the ‘Ministerial declaration on strengthening our actions at the national, regional and international levels to accelerate the implementation of our joint commitments to address and counter the world drug problem’.¹ At the time, Member States had agreed to conduct a mid-term review of progress made ‘in implementing all our international drug policy commitments’ in 2024, with a final review planned in 2029.

The mid-term review will be held at the margins of the 67th session of the CND in March 2024 (see Box 1).² This high-level segment is set to take place against a backdrop of devastating human rights abuses and major drug-related public health crises affecting numerous countries, while initiatives to regulate drugs at national level and calls for global reform are putting the international drug control system under unprecedented pressure.

In this advocacy note, IDPC lays out the main challenges and opportunities offered by the mid-term review and provides recommendations for the global drug control regime to rise to the challenge of becoming fit for purpose.

Acknowledging the failures of the global drug control regime

In 2019, Member States identified various challenges which they committed to address within the next ten years. IDPC will soon publish a com-

prehensive evaluation of the extent to which each of these challenges have been met over the past four years (see Box 2). The main takeaway from the available data is that these challenges are far from being met.

Starting with the ‘eradication’ goals of reducing illegal drug demand and supply, it is clear that these goals remain not only unrealistic, but also unachievable and undesirable.³ The estimated number of people who use drugs has now reached 296 million, a 9% increase from estimates reported in the 2019 World Drug Report.⁴ Regarding supply, the 2023 World Drug Report highlights unprecedented levels of coca bush cultivation and cocaine production, while noting an increasingly present and ever-expanding synthetic drug market, with over 1,800 new psychoactive substances currently being monitored by national authorities worldwide.⁵

The ongoing criminalisation, stigmatisation and marginalisation of people who use drugs, coupled with inadequate access to harm reduction and human rights-based treatment services, and the refusal to consider regulated approaches to drug markets in order to control the toxic supply of opioids, has contributed to devastating public health crises. The surge in overdose deaths, especially in North America, has claimed hundreds of thousands of lives since 2019,⁶ while the total estimated number of drug use-related deaths globally totalled close to 500,000 in 2019 alone (the latest global estimate at our disposal).⁷ At the same time, people who use drugs are disproportionately affected by preventable infections such as HIV, hepatitis B and C, and tuberculosis. These

public health crises have run in parallel with the ongoing lack of access to controlled medicines for pain relief and palliative care, in particular in the Global South. According to the latest estimates, over 82% of the world population has access to less than 17% of the world's morphine-based medicines,⁸ and there is a 40-fold difference in the availability of opioids per capita for pain management and palliative care between high-income and low- and middle-income countries.⁹

In areas of cultivation, production and transit, aggressive law enforcement and militarised campaigns to curb the illegal drug market have resulted in increased levels of violence, as well as severe human rights violations including capital punishment, extrajudicial killings, enforced disappearances, arbitrary arrests and detention and mass incarceration, as well as severe and irreparable damage to the environment. In most contexts, women, young people, people from specific ethnic groups and people living in poverty have been disproportionately affected by punitive drug control. In areas where alternative development efforts have been implemented, subsistence

farmers have faced a number of challenges that have prevented them from leaving behind the cycle of poverty and vulnerability they are facing.¹⁰

This dire situation has led the High Commissioner for Human Rights, to call 'for a stop to the "war on drugs" and instead focus on transformative change – crafting gender-sensitive drug policies, based on evidence, which put human rights at the centre'.¹¹ To that end, in a landmark report published as an official contribution to the mid-term review, the Office of the High Commissioner for Human Rights (OHCHR) offers a number of recommendations for decision-makers. Under the overarching objective of breaking away from the punitive paradigm that has guided global drug control, these recommendations include the need to scale up harm reduction and treatment services, to end militarisation, overincarceration and the use of the death penalty, to decriminalise drug use and possession and ensure alternatives to criminalisation, as well as to 'take control of illegal drug markets through responsible regulation, to eliminate profits from illegal trafficking, criminality and violence'.¹²

Box 1 Ensuring an inclusive, open, transparent and ambitious process

The modalities for the mid-term review were agreed in Resolution 66/1¹³ and IDPC has provided various recommendations to ensure that the process is as inclusive, open, transparent and ambitious as possible. These include:¹⁴

- Promoting the broad participation of all Member States, relevant UN bodies and civil society both in person and virtually, with the proceedings made publicly available on UN Web TV.
- Encouraging the United Nations Office on Drugs and Crime (UNODC) – as the lead agency within the UN Task Team responsible for the implementation of the UN System Common Position on drugs – to work with other UN bodies on an evaluation of progress made since 2019. This should include a call for contributions from all relevant stakeholders, including civil society, to reflect realities on the ground.
- Reflecting the inputs of civil society in the discussions and outcomes of the mid-term

review, including those gathered through the New York NGO Committee on Drugs (NYNGOC) and the Vienna NGO Committee on Drugs (VNGOC) as part of their cross-committee global civil society consultation process for the mid-term review.

- Ensuring that the discussions and outcomes of the mid-term review are strongly aligned with the 2030 Agenda for Sustainable Development.
- Proposing a new roadmap for further debates for the period 2024-2028, based on new thematic priority areas, and aligned with the UN goals of promoting human rights, development, the rule of law, and peace and security.
- Ensuring that Member States do not shy away from breaking the consensus when negotiating the concise, action-oriented document of the mid-term review, if adopting it by vote permits the adoption of an ambitious declaration geared towards transformative change in drug policy.

At the mid-term review, the international community should acknowledge that the objectives set out in 2019 have not been met. Following the example of the OHCHR, Member States should recognise that punitive drug policies have been ineffective and counterproductive, and that a new approach is needed.

Increased pressure for Vienna to endorse a human rights approach

The 2023 OHCHR report marks the culmination of increased involvement by the UN human rights system in drug-related matters. Since the 2016 UNGASS, UN Special Procedures, treaty bodies and the OHCHR have engaged more systematically in drug-related debates, including in Vienna, but also within their own work. This has put significant pressure on the UN drug control system to acknowledge the failings of the punitive paradigm and move towards an approach grounded in health and human rights.

A key example of this is the Study on drug policy by the Working Group on Arbitrary Detention, undertaken amidst ongoing reluctance within the CND to adequately consider the human rights abuses associated with drug control.¹⁵ The watershed report, published in 2021, paints a bleak picture of the links between drug control and arbitrary arrests and detention in all corners of the world. Invited to present the report during the CND Reconvened Session in December of that year, the Working Group Chair was eventually blocked from doing so after pressure from a small group of Member States.¹⁶ Nonetheless, after much pushback and advocacy, the report was eventually presented to the CND in March 2022. The resistance to address human rights violations committed in the name of drug control in Vienna is not limited to the CND. UNODC leadership also remains reticent to promote evidence-based policies and interventions such as decriminalisation, or to vocally condemn human rights abuses related to drug policy. The UNODC's role in implementing the UN System Common Position on drugs has also thus far been largely underwhelming.

Meanwhile, the debate on human rights and drug policy is advancing at an unprecedented pace in

Box 2 IDPC evaluates global drug policy in the lead up to the mid-term review

CND Resolution 66/1 calls on UN agencies, international and regional organisations, Member States and civil society to make information available to the CND as contributions to the mid-term review.¹⁷ As part of this effort, IDPC will soon launch a Shadow Report¹⁸ that evaluates progress made against each of the 'persistent and emerging challenges' identified in the 2019 Ministerial Declaration, focusing issues related to health, organised crime, violence, human rights, development and civil society involvement. The Shadow Report relies on data from official UN and government reports, civil society publications and academic research, as well as a Civil Society Survey shared among our broad network of members and partners. The Report will also feature the testimonies of people directly affected by drug policies in all corners of the world, and will be launched at the CND thematic discussion in December.

Geneva. Aside from the landmark reports from the OHCHR and the Working Group on Arbitrary Detention, UN human rights Special Procedures have joined hands in publishing a series of statements calling for the end of punitive drug policies and for urgent reforms to be implemented on the ground.¹⁹ UN human rights treaty bodies have also expanded their jurisprudence on the human rights implications of drug policy within their respective mandates, and just last year the UN Committee on Economic, Social and Cultural Rights (CESCR) announced that it would produce the first-ever General Comment on the impacts of drug policy on the implementation of the International Covenant on Economic, Social and Cultural Rights.²⁰

Cultural rights have recently come into the spotlight in UN debates as Bolivia activated a formal process for the World Health Organization's Expert Committee on Drug Dependence (ECDD) to conduct a critical review of the coca leaf and its classification as a Schedule I substance in the 1961 Single Convention on Narcotic Drugs. The initiation of the coca review process comes within the context of wider efforts to highlight and re-

dress the impacts of drug control on Indigenous Peoples' rights, and to decolonise global drug policy. The coca review should be taken as a key opportunity for the international community to hold urgent discussions on the objectives of global drug policy, assess what needs to change, and identify options for much-needed reforms.

Nearly 25 years into the 21st century, most parts of the UN are showing their support for new approaches to drug policy. A failure to ensure that the mid-term review engages meaningfully in debates on these new approaches would mean that Vienna risks falling into irrelevance. The roundtable debate dedicated to looking to the future of drug policy at the mid-term review will provide a platform to hold such debates, and we strongly urge Member States not to shy away from this discussion.

Navigating a tense diplomatic environment

The geopolitical landscape within which the mid-term review is taking place also presents challenges. Russia's invasion of Ukraine in February 2022 has intensified existing tensions between Russia and more progressive Member States, and hence their willingness to find common ground at the UN. This could be seen during the 65th and 66th sessions of the CND,²¹ where tense debates and protracted negotiations – as well as recurring mentions from some Member States that voting could be an option if consensus was unreachable – demonstrated unprecedented levels of diplomatic friction and acrimony, and led to the breakdown of several practices associated with the 'Vienna spirit', including the universal adherence to decision making by consensus.

This was also reflected during the negotiations of the annual drugs 'omnibus' resolution at the UN General Assembly in 2022. As the penholder for the resolution, Mexico decided to present a shorter draft with a stronger focus on human rights. Importantly, their resolution did not include the long-standing reference to the objective of promoting a 'society free of drug abuse'.²² For the first time in history for a resolution on drug policy, consensus could not be reached and the text was adopted by vote, with a broad majority in

favour.²³ This experience served to highlight how seeking consensus at all costs has prevented the CND from endorsing progressive language in favour of 'harm reduction' and condemning blatant human rights abuses such as the ongoing use of the death penalty, compulsory detention, racial discrimination and more.

Similarly, although the latest resolution of the Human Rights Council on drugs was adopted without a vote, the fact that voting was always a possibility allowed supportive Member States to hold firm on progressive language during the negotiations.²⁴ This led to the use of the term 'harm reduction' for the first time in a UN resolution on drugs – a development that should be expanded to the CND. Indeed, voting on resolutions and political documents is not uncommon within the UN system, including at the General Assembly and the Human Rights Council.

But even adopting a political document by vote can present challenges. In June 2021, the latest UN General Assembly Political Declaration on HIV and AIDS²⁵ also failed to achieve consensus for the first time.²⁶ Although the vote was overwhelmingly won, this came after Russia had already made extensive edits to the text which it ultimately ended up voting against. Important lessons can be learned from this for the mid-term review in terms of the planning and coordination required in the event that consensus cannot be reached at the CND.

As Member States are about to embark on a new round of negotiations on the concise, action-oriented document of the mid-term review, the CND has the opportunity to overcome inertia by moving away from consensus and opting instead for an ambitious and forward-looking statement adopted by vote. Following the precedent of the 2023 Human Rights Council resolution on drugs, we recommend that like-minded states define their 'red lines' for the 2024 outcome document as soon as possible – which should include the term 'harm reduction' – and stay strongly coordinated throughout the negotiations.

Welcoming and promoting reforms grounded in health and human rights

While the debates have largely remained stalled in Vienna, a growing number of jurisdictions worldwide have adopted drug policies and strategies aligned with health, human rights and development. For instance, seven countries (Barbados, Dominica, Kyrgyzstan, Luxemburg, Malta, Mauritius and Trinidad and Tobago) and nine jurisdictions at federal level (the Australian Capital Territory, British Columbia in Canada, and Hawaii, Illinois, New Jersey, New Mexico, New York, Oregon and Virginia in the USA) have adopted some form of decriminalisation of drug use and possession for personal use since 2019, with many more countries considering this reform. This takes the global tally to 67 jurisdictions in 41 countries.²⁷

Similarly, at least 17 countries across Africa, Asia, Europe, Latin America and the Middle East have adopted new laws or policies to facilitate access to medicinal cannabis over the past four years²⁸ While medicinal cannabis is becoming more widely available, in 2020 the CND voted in favour of removing the plant from Schedule IV of the 1961 Single Convention on Narcotic Drugs²⁹ – a long-overdue recognition of cannabis' medical value.³⁰

Going a step further, more jurisdictions have now opted for legally regulated markets for the non-medical use of cannabis, despite the tensions that this creates with the UN drug control system. Since the CND adopted the Ministerial Declaration in March 2019, Luxemburg, Malta, Thailand and 13 US states³¹ have joined Canada, Jamaica, Uruguay and 10 other US states in legally regulating some form of cannabis supply for non-medical use. Additional countries are considering the approach, including proposals in the USA to de-schedule cannabis at the federal level. The OHCHR itself has recommended that Member States consider the responsible regulation of internationally controlled drugs as a policy option to protect human rights and in an effort to tackle the links with organised crime and insecurity.³² This brings the total number of people living in jurisdictions with some form of legal regulation for internationally controlled substances to 261 million. This inevitably poses questions about

how to reconcile legal regulation with the obligations contained in the international drug control treaties – and various Member States are already creating space for discussions on this important issue.³³ Bolivia managed to reconcile the domestic legal coca market with its treaty obligations when it withdrew from the Single Convention in 2011 and subsequently re-adhered with a reservation on the coca leaf.³⁴

New political leaders, in particular from Latin America, are also working together to open up meaningful discussions at national, regional and global levels. Just a few weeks ago, Colombia and Mexico held a regional convening in Cali, Colombia, to foment discussions on the global state of drug policy in the lead up to the mid-term review. In an effort to tackle the rising global synthetic drug market, in the summer of 2023, the USA launched a Global Coalition to Address Synthetic Drug Threats.³⁵ Whether Member States seize these initiatives as an opportunity to push for a reform agenda or decide to strengthen punitive responses to drugs remains to be seen.

We urge Member States to use the mid-term review as a starting point for initiating a frank conversation on options to reform and modernise the UN drug control treaties.

Conclusion and recommendations

The backdrop against which the mid-term review is set to take place means that a 'business as usual' approach is simply not tenable. Political leaders urgently need to bring these debates to the mid-term review and open space for meaningful and inclusive discussions on their implications for the global drug control regime. Member States should issue strong statements during the thematic and roundtable debates, as well as strive for the adoption of an ambitious substantive outcome document. In that regard, the following recommendations are provided:

- The debates and outcome document should underscore the normative developments that have taken place at the CND, the General Assembly, and the Human Rights Council since 2019. Amongst others, these developments include new language on racial discrimination, on Indigenous Peoples' rights, on en-

shrining the principle of adequate sequencing in alternative development, and the explicit use of the term 'harm reduction'.

- Following the recommendations of the High Commissioner for Human Rights, the protection of health, human rights, equality and non-discrimination should be integrated as overarching objectives for the international community during the second half of the implementing period for the 2019 Ministerial Declaration. The 'eradication' goals should not be reiterated, and should instead be replaced with a strong call for global drug policies to contribute meaningfully to the achievement of the 2030 Agenda for Sustainable Development. This paradigm shift should be reflected in the thematic and roundtable debates, in the outcome document, and be incorporated in the workplan of CND thematic intersessional discussions for the period 2024 to 2029.
- The outcome document should update the list of challenges included in the 'Stocktaking' section of the 2019 Ministerial Declaration to incorporate the new developments that have emerged since 2019. Importantly, the new list of challenges should align with the achievement of the 2030 Agenda for Sustainable Development. These 'challenges' should be reflected in the workplan of intersessional meetings for the 2024-2029 period:
 1. The links between drug trafficking and drug law enforcement and organised crime, militarisation, violence, conflict and insecurity (relevant SDGs: 16.1, 16.4, 16.4.1, 16.5, 16.a)
 2. The increasing use of digital technologies in illegal drug markets and its implications for security, human rights, health and development
 3. The heightened risks and harms faced by people who use drugs, and ongoing structural, legislative and technical challenges in access to evidence- and human rights-based prevention, harm reduction, treatment, care and recovery services (relevant SDGs: 3.3, 3.5)
 4. The ongoing gap in access to internationally controlled substances for medical and scientific purposes (relevant SDGs: 3.8)
- 5. The impacts of illegal drug markets and drug policies on human rights, equality, and non-discrimination, including racial discrimination and Indigenous Peoples' rights (relevant SDGs: 5.1, 10.3, 16.1, 16.b)
- 6. The underuse of alternatives to coercive sanctions or imprisonment for drug offences (relevant SDGs: 16.3)
- 7. The challenges and opportunities associated with legally regulated markets for internationally controlled substances, and options for structural reforms of the global drug control regime
- 8. The poverty and marginalisation faced by communities involved in illegal drug activities, including farmers involved in illegal crop cultivation (relevant SDGs: 1.1, 1.3., 1.4, 5.a, 8.5)
- 9. The environmental impacts of the illegal drug market and drug policy (relevant SDGs: 3.9, 13.2, 15.3)
- 10. The need to improve data collection and analysis to track critical aspects of the world drug situation (relevant SDGs: 17.14, 17.18).
- During the mid-term review, we encourage Member States to acknowledge the existence of legally regulated markets for the non-medical use of internationally controlled drugs, and to call for periodic and evidence-based monitoring of, and reporting on, the security, health, human rights, and development impacts of such markets by relevant UN bodies, with contributions from civil society, academia and Member States.
- The outcome document should acknowledge and welcome the contributions of the different UN entities that have provided input to the 2019 Ministerial Declaration on drugs, and call for greater coherence within the UN system on drug policy issues. For the 2024 to 2029 period, a process should be established to ensure that contributions by other UN bodies and experts concerning drug policy

are consistently presented to the CND.

- The role of civil society in holding governments accountable for the impacts of drug policies on communities, and in promoting reforms, remains critical. Ensuring their meaningful participation in the mid-term review and beyond is therefore essential.

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About this advocacy note

In this advocacy note, IDPC lays out the main challenges and opportunities offered by the 2024 Mid-term review of the 2019 Ministerial Declaration on drugs, and provides recommendations for the global drug control regime to rise to the challenge of becoming fit for purpose.

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About IDPC

The International Drug Policy Consortium is a global network of NGOs that come together to promote drug policies that advance social justice and human rights. IDPC's mission is to amplify and strengthen a diverse global movement to repair the harms caused by punitive drug policies, and to promote just responses.

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